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REMARKS

The parent application serial no. 10/768,876, which is the basis upon which the claims were provisionally rejected under the judicially created doctrine of obviousness-type double patenting, is being allowed to become abandoned, which will thus render the rejection moot.

The rejection of claims 15 and 16 is rendered moot by the cancellation thereof.

Claims 1 to 14 have been rejected under 35 USC 112, second paragraph, the Examiner stating that claims 1 and 6 lack antecedent basis for the recitation "at least one edge" and that claims 6 and 11 lack antecedent basis for the recitations "the contour longitudinally of said at least one arcuate side wall edge" and "the contour longitudinally of said arcuate side wall edges" respectively.

The claims have been amended to more clearly recite what Applicant regards as the invention.

As amended, claims 1 and 6 do not recite "at least one edge". As amended, claims 6 and 11 do not recite "the contour". It is respectfully submitted that, as amended, claims 1 to 14 particularly point out and distinctly claim the subject matter which Applicant regards as the invention, and claims 15 and 16 have been canceled. Therefore, it is respectfully requested that the rejection under 35 USC 112, second paragraph, be withdrawn.

Claims 1 and 6 have been rejected under 35 USC 102(b) as being anticipated by U.S. patent 6,168,493 to Kirby, and claim 11 has been rejected under 35 USC 103(a) over Kirby in view of "Applicant's Admission of Prior Art", the Examiner stating that Kirby teaches a box call with a paddle which has a lower longitudinally arcuate surface, and that Kirby teaches that the lower surface of the paddle has a contour longitudinally which conforms substantially to the contour of the wall edges,

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referencing fig. 9. The remaining claims, which are dependent on one or the other thereof, have also been rejected.

As amended, each of claims 1 and 6 recites that the paddle is elongate and that the paddle lower surface has a pair of edges which extend longitudinally of said paddle and which are arcuate. As amended, claim 6 also recites that each of the pair of edges has a contour which conforms substantially to a contour of said arcuate side wall edge. As amended, claim 11 recites that the paddle is elongate and that the paddle lower surface has a pair of edges extending longitudinally of said paddle and which have contours respectively which conform substantially to contours of said arcuate side wall edges respectively. The specification and drawings have been amended to conform, with the drawings changed by the addition of the reference numeral 41 (for the paddle lower surface longitudinal edges) to Figs. 1, 2, and 3. The approval of the Examiner for this change in the drawings is respectfully requested. It is respectfully submitted that no new matter is occasioned by this amendment. For the reasons provided hereinafter, it is respectfully submitted that each of the claims, as amended, is novel and unobvious over the art of record and therefore patentable.

The present invention relates to a box call wherein an elongate box has a longitudinally extending upper arcuate edge on at least one of its longitudinal walls which is contacted by the lower surface of an elongate paddle or striking member. In accordance with the present invention, the elongate paddle lower surface has a pair of longitudinally extending edges, illustrated at 41, which are arcuate, as seen in Figs. 1 and 3. This defines or is defined by the arcuate nature of the paddle lower surface in a direction longitudinally thereof, i.e., in a direction parallel to the paddle lower surface edges. Thus, in addition to the paddle lower surface being arcuate laterally or cross-wise

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thereof (in a direction normal to the longitudinal direction), as seen in Figs. 2 and 4, as is typical in the art, the paddle lower surface is arcuate in the longitudinal direction. Also in accordance with the present invention, the paddle lower surface longitudinally extending edges are contoured to conform substantially to the contours of the longitudinally extending edge or edges of the box, as seen in Fig. 3. A call made according to the present invention surprisingly made high quality sounds, as more specifically described in the paragraph which spans pages 8 and 9 of the specification.

Kirby discloses a box call which comprises an elongate box having a pair of longitudinally extending walls with upper longitudinally extending edges, illustrated at 38 and 40 therein, the edges being arcuate, as seen in Figs. 5 and 6 thereof, and an elongate paddle for striking the edges for making sounds. The lower surface of the paddle is arcuate laterally or cross-wise thereof, as seen at 48 in Fig. 9 thereof.

Unlike the present invention, the longitudinally extending edges of the paddle lower surface of Kirby are not arcuate and also do not conform to the arcuate longitudinally extending edges of the box walls, as seen best in Figs. 5 and 6 thereof. Thus, if a ruler were to be laid alongside the lower paddle surface edge in either of Figs. 5 and 6 thereof, it will be apparent that it was drawn in each figure with a straight line, thus clearly indicating that the laterally arcuate lower paddle surface of Kirby was drawn to be shown to be flat (and thus not arcuate) in the longitudinal direction and particularly with non-arcuate longitudinal edges.

Neither Kirby or any other of the references of record, whether taken together or individually, discloses or suggests a box call comprising an elongate box having a pair of longitudinally extending walls, a sounding chamber between the

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walls, a longitudinally extending upper arcuate edge on at least one of the walls, and an elongate paddle having a lower surface for engaging the edge for making sounds, wherein the paddle lower surface has a pair of edges, extending longitudinally thereof, which are arcuate, as claimed in claims 1 and 6, as amended, in order to provide high quality sounds as more specifically described in the paragraph which spans pages 8 and 9 of the specification. Therefore, it is respectfully submitted that claims 1 and 6, as amended, are novel and unobvious over the prior art and therefore patentable.

Neither Kirby or any other of the references of record, whether taken together or individually, discloses or suggests a box call comprising an elongate box having a pair of longitudinally extending walls, a sounding chamber between the walls, a pair of longitudinally extending upper arcuate edges on the walls respectively, and an elongate paddle, the box having an arc rise of about 3/16 to 1/4 inch, and the paddle having a lower surface for engaging the edges for making sounds, wherein the paddle lower surface has a pair of edges, extending longitudinally of the paddle, which have contours respectively which conform substantially to contours of the arcuate side wall edges respectively, the paddle having a width of about 1 3/4 inch, and the paddle lower surface is arcuate laterally and has an arc rise laterally of about 1/8 to 3/16 inch, as claimed in claim 11, as amended, in order to provide high quality sounds as more specifically described in the paragraph which spans pages 8 and 9 of the specification. Therefore, it is respectfully submitted that claim 11, as amended, is unobvious over the prior art and therefore patentable.

Since each of the remaining claims pending in this application is dependent on one or the other of claims 1, 6, and 11, as amended, it is respectfully submitted that they are also

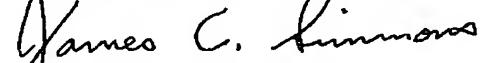
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patentable for at least the same reasons respectively.

Since each of the claims, as amended, has been shown to be patentable, it is respectfully submitted that this application is in condition for allowance, and such is respectfully requested. If it would aid in advancing this application to issue, the Examiner is respectfully urged to call the undersigned attorney for Applicant at the number below.

Respectfully submitted,



James C. Simmons

Reg. no. 28,474

Enclosure (sheet of revised drawings)

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